

Department of Veterans Affairs

§ 3.159

the date of such examination, treatment or hospital admission.

(Authority: 38 U.S.C. 501)

(2) *Evidence from a private physician or layman.* The date of receipt of such evidence will be accepted when the evidence furnished by or in behalf of the claimant is within the competence of the physician or lay person and shows the reasonable probability of entitlement to benefits.

(3) *State and other institutions.* When submitted by or on behalf of the veteran and entitlement is shown, date of receipt by the Department of Veterans Affairs of examination reports, clinical records, and transcripts of records will be accepted as the date of receipt of a claim if received from State, county, municipal, recognized private institutions, or other Government hospitals (except those described in paragraph (b)(1) of this section). These records must be authenticated by an appropriate official of the institution. Benefits will be granted if the records are adequate for rating purposes; otherwise findings will be verified by official examination. Reports received from private institutions not listed by the American Hospital Association must be certified by the Chief Medical Officer of the Department of Veterans Affairs or physician designee.

[26 FR 1571, Feb. 24, 1961, as amended at 27 FR 4421, May 9, 1962; 31 FR 12055, Sept. 15, 1966; 40 FR 56434, Dec. 3, 1975; 52 FR 27340, July 21, 1987; 60 FR 27409, May 24, 1995]

§ 3.158 Abandoned claims.

(a) *General.* Except as provided in § 3.652 of this part, where evidence requested in connection with an original claim, a claim for increase or to reopen or for the purpose of determining continued entitlement is not furnished within 1 year after the date of request, the claim will be considered abandoned. After the expiration of 1 year, further action will not be taken unless a new claim is received. Should the right to benefits be finally established, pension, compensation, dependency and indemnity compensation, or monetary allowance under the provisions of 38 U.S.C. 1805 based on such evidence shall

commence not earlier than the date of filing the new claim.

(Authority: 38 U.S.C. 501)

(b) *Department of Veterans Affairs examinations.* Where the veteran fails without adequate reason to respond to an order to report for Department of Veterans Affairs examination within 1 year from the date of request and payments have been discontinued, the claim for such benefits will be considered abandoned.

(c) *Disappearance.* Where payments of pension, compensation, dependency and indemnity compensation, or monetary allowance under the provisions of 38 U.S.C. 1805 have not been made or have been discontinued because a payee's present whereabouts is unknown, payments will be resumed effective the day following the date of last payment if entitlement is otherwise established, upon receipt of a valid current address.

[27 FR 11887, Dec. 1, 1962, as amended at 28 FR 13362, Dec. 10, 1963; 52 FR 43063, Nov. 9, 1987; 62 FR 51278, Sept. 30, 1997]

CROSS REFERENCES: Periodic certification of continued eligibility. See § 3.652. Failure to report for VA examination. See § 3.655. Disappearance of veteran. See § 3.656.

§ 3.159 Department of Veterans Affairs assistance in developing claims.

(a) Although it is the responsibility of any person filing a claim for a benefit administered by the Department of Veterans Affairs to submit evidence sufficient to justify a belief in a fair and impartial mind that the claim is well grounded, the Department of Veterans Affairs shall assist a claimant in developing the facts pertinent to his or her claim. This requirement to provide assistance shall not be construed as shifting from the claimant to the Department of Veterans Affairs the responsibility to produce necessary evidence.

(b) When information sufficient to identify and locate necessary evidence is of record, the Department of Veterans Affairs shall assist a claimant by requesting, directly from the source, existing evidence which is either in the custody of military authorities or maintained by another Federal agency. At the claimant's request, and provided